

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

KAYLA GORE; L.G.; and K.N.,

Plaintiffs,

v.

WILLIAM BYRON LEE, in his official
capacity as Governor of the State of
Tennessee; and LISA PIERCEY, in her
official capacity as Commissioner of the
Tennessee Department of Health,

Defendants.

No. 3:19-cv-00328

Judge Eli J. Richardson
Magistrate Judge Barbara D. Holmes

DECLARATION OF VANESSA LEFLER

My name is Vanessa Lefler, I am over the age of eighteen and competent to testify to the matters set out below based on personal knowledge, my education and experience as the Director of Vital Statistics at the Division of Vital Records & Statistics, Tennessee Department of Health. Therefore, I declare as follows:

1. Recording sex at time of birth is necessary for several reasons, including but not limited to:
 - a. Use as a direct indicator in maternal and child health outcomes in public health surveillance and research. Fetal or infant sex is found in research to be a risk factor for the incidence of other information collected on the Certificate of Live Birth, including gestational diabetes (Retnakaran, *et al.* 2015; Tunidor, *et al.* 2012), preterm birth (Challiss, *et al.* 2013; Zeitlin, *et al.* 2002), infant birth weight, and cesarean delivery (Aibar, *et al.* 2012; Di Renzo, *et al.* 2007; Eogan, *et al.* 2003);

- b. Analysis for logical consistency with other items collected on the Certificate of Live Birth, particularly the congenital anomaly, hypospadias, which is defined as the “incomplete closure of the male urethra resulting in the urethral meatus opening on the ventral surface of the penis” (*Guide to Completing the Facility Worksheets for the Certificate of Live Birth and Report of Fetal Death* 2019, pg. 54);
 - c. Inclusion in sets of personal identifiers used in records matching programs for administrative or auditing functions. The linkage of birth certificate records to TennCare (Medicaid) or Newborn Screening data, which receive information from medical records that were generated at the time of birth, are examples of this work. Sex is routinely included as a data element in records matching programs in order to establish more confident matches in the absence of reliable unique identifiers, such as a Social Security Number or Medical Record Number (Harron, *et al.* 2014; Herrchen, Gould, and Nesbitt 1997).
2. Following NCHS guidance, the Tennessee Birth Statistical System is limited to three valid values for the sex of the infant: Male, Female, and, if the sex of the infant is ambiguous, Not Yet Determined or Unknown (*Guide to Completing the Facility Worksheets for the Certificate of Live Birth and Report of Fetal Death* 2019, pg. 45).

Citations:

Aibar, Laura, Alberto Puertas, Mercedes Valverde, M. Paz Carrillo, and Francisco Montoya. 2012. Fetal sex and perinatal outcomes. *Journal of Perinatal Medicine*, 40(3): 271-276.

Challis, J., J. Newnham, F. Petraglia, M. Yeganegi, and A. Bocking. 2013. Fetal sex and preterm birth. *Placenta*, 34(2): 95-99.

Di Renzo, Gian Carlo, Alessia Rosati, Roberta Donati Sarti, Laura Cruciani, and Antonio Massimo Cutuli. 2007. Does fetal sex affect pregnancy outcome? *Gender Medicine*, 2007. 4(1): 19-30.

Eogan, Maeve A., Michael P. Geary, Michael P. O'Connell, and Declan P. Keane. 2003. Effect of fetal sex on labor and delivery: retrospective review. *BMJ*, 326: 137.

Guide to Completing the Facility Worksheets for the Certificate of Live Birth and Report of Fetal Death (2003 Revision). 2019. National Center for Health Statistics, Centers for Disease Control and Prevention. Hyattsville, MD.
<https://www.cdc.gov/nchs/data/dvs/GuidetoCompleteFacilityWks.pdf>

Harron, Katie, Angie Wad, Ruth Gilbert, Beri Muller-Pebody, and Harvey Goldstein. 2014. Evaluating bias due to data linkage error in electronic healthcare records. *BMC Medical Research Methodology*, 14: 36.

Herrchen, Beate, Jeffrey B. Gould, and Thomas S. Nesbitt. 1997. Vital Statistics Linked Birth/Infant Death and Hospital Discharge Record Linkage for Epidemiological Studies. *Computers and Biomedical Research*, 30(4): 290-305.

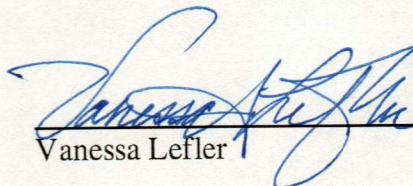
Retnakaran, Ravi, Caroline K. Kramer, Chang Ye, Simone Kew, Anthony J. Hanley, Philip W. Connelly, Mathew Sermer, and Bernard Zinman. 2015. Fetal Sex and Maternal Risk of Diabetes Mellitus: The Impact of Having a Boy. *Diabetes Care*, 38: 844-851.

Tundidor, Diana, Apolonia García-Patterson, Miguel A. María, Justa Ubeda, Gemma Ginovart, Juan M. Adelantado, Alberto de Leiva, and Rosa Corcoy. 2012. Perinatal Maternal and Neonatal Outcomes in Women with Gestational Diabetes Mellitus According to Fetal Sex. *Gender Medicine*, 9(6): 411-417.

Zeitlin, Jennifer, Marie-Josèphe Saurel-Cubizolles, Jaques deMouzon, Lucile Rivera, Pierre-Yves Ancel, Béatrice Blondel, and Monique Kaminski. 2002. Fetal sex and preterm birth: are males at greater risk? *Human Reproduction*, 17(10): 2762-2768.

I declare under penalty of perjury that the foregoing is true and correct.

This 14 day of May, 2020.



Vanessa Lefler